

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

GEORGE A. SMITH,
a citizen and resident of Benton County, Tennessee,

PLAINTIFF,
VS.

Case No.: 1:22-cv-01084-STA-jay

U.S. MARSHALS SERVICE,
a law enforcement agency with the U.S. Government,
and
BENTON COUNTY SHERIFF'S DEPARTMENT,
a law enforcement agency of Benton County, Tennessee,
and
HENRY COUNTY SHERIFF'S DEPARTMENT,
a law enforcement agency of Henry County, Tennessee,
and
TENNESSEE BUREAU OF INVESTIGATION,
a law enforcement agency of the State of Tennessee,

DEFENDANTS.

**ORDER DENYING MOTIONS TO DISMISS WITHOUT PREJUDICE
AND ALLOWING AMENDED COMPLAINT**

Defendants Tennessee Bureau of Investigation, Benton County Sheriff's Department, and Henry County Sheriff's Department have filed motions to dismiss. (ECF Nos. 11, 13, 14.) In response, Plaintiff filed a combined response and motion to amend the complaint. (ECF No. 24.)¹ Defendants have filed replies to Plaintiff's response/motion to amend in which they argue, *inter alia*, that the amendment would be futile. (ECF Nos. 25-27.)

Rule 15(a) governs amendments to complaints made before trial. Under Rule 15(a), "[a] party may amend its pleading once as a matter of course within ... 21 days after serving it, or ... if

¹ In the future, Plaintiff should file separate responses and motions.

the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). In the present case, Plaintiff received extensions of time in which to file his response/motion to amend within twenty-one days of service of the motions to dismiss. Therefore, he may amend his complaint as a matter of course without leave of Court. Plaintiff will have seven (7) days from the entry of this order in which to file his amended complaint.

The amended complaint supersedes the original complaint, thus making the motions to dismiss the original complaint moot. *See Parry v. Mohawk Motors of Mich., Inc.*, 236 F.3d 299, 306 (6th Cir. 2000) (holding that the amended complaint supersedes all previous complaints and becomes the operative pleading). Accordingly, the motions to dismiss are **DENIED** without prejudice.

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. THOMAS ANDERSON
CHIEF UNITED STATES DISTRICT JUDGE

Date: August 3, 2022